Contracts to indemnify bail might be regarded as criminal conspiracies on two grounds. (1) It is said that their inevitable tendency is to make bail careless and allow the prisoner easily to abscond.[12] But the authorities seem sound in holding that the tendency is really not so inevitable as to condemn the contract on that ground.[13] (2) An agreement to cheat has been held criminal;[14] and if a contract to indemnify bail is to be deemed necessarily a conspiracy to cheat the state into a virtual release of the prisoner on his own recognizance, then surely it must be criminal. If the unlawful act contemplated must, in its inevitable consequences, be prejudicial to the community, an intent to do that act is a sufficient evil intent.[15] If, however, the act contemplated is not, for either of the reasons given, sufficiently harmful, a wrongful intent must be distinctly found as a fact.[16] It is submitted that in the main case the unlawful act is not so closely bound up with the possible consequential harm to the community,[17] that the intent to do that act is necessarily an evil one, even in the face of a jury finding that no evil consequences were in fact intended.

RECENT CASES.

ADVERSE POSSESSION — AGAINST WHOM TITLE MAY BE GAINED — ESTABLISHMENT OF STATE BOUNDARY BY LAPSE OF TIME. — In 1788 a line was surveyed and marked as the boundary between Maryland and Virginia. Maryland disputed the correctness of the line, and between 1820 and 1830 carried on unsuccessful negotiations with Virginia to have it corrected. In 1859 it had another line surveyed and made repeated attempts to have this accepted as the boundary. The original line was always treated as the boundary by private landowners, and the two states exercised their jurisdiction with reference to it. In 1891, Maryland filed a bill to have the Supreme Court settle the dispute. *Held*, that the original line must be established as the boundary. *The State of Maryland* v. *The State of West Virginia*, U. S. Sup. Ct., Feb. 21, 1910. See NOTES, p. 555.

ALIENS — NATURALIZATION — "FREE WHITE PERSONS." — A Syrian applied for naturalization. *Held*, that he should be admitted. *In re Najour*, 174 Fed. 735 (Circ. Ct., N. D. Ga.).

An Armenian applied for naturalization. *Held*, that he should be admitted. *In re Halladjian*, 174 Fed. 834 (Circ. Ct., D. Mass.).

The phrase "free white person" has run the entire gamut of the naturalization laws. ACT MARCH 26, 1790, c. 3, 1 U. S. STAT. AT L. 103; ACT FEB. 18, 1875, c. 80, U. S. COMP. St. (1901), § 2169. Its temporary omission in 1873 was probably an inadvertence. See *In re Saito*, 62 Fed. 126. Since the abolition of slavery the word "free" is mere surplusage. The word "white" has proved a fruitful source of argument. To the scientific mind at the time the first statute was drafted

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Steventon, 2 East 362 (to prevent the attendance of witnesses); Rex *v.* Sterling, 1 Lev. 126 (to impoverish the excise men and diminish the king's revenue).

[12] But see Rex *v.* Stockwell, 66 J. P. 376 (Cent. Crim. Ct., 1902).

[13] Rex *v.* Broome, *supra;* Reg *v.* Badger, *supra.*

[14] Curley *v.* U. S., 130 Fed. 1. See MAY, CRIMINAL LAW, 3 ed., 173.

[15] Rex *v.* Brailsford, *supra.*

[16] People *v.* Flack, 125 N. Y. 324. See MAY, CRIMINAL LAW, 3 ed., 173.

[17] Rex *v.* Stockwell, *supra.*

"white" meant Caucasian, as distinguished from Mongolian or yellow, Ethiopian or black, American or red, Malay or brown — following Blumenbach's classification in 1781. Accordingly, naturalization has been denied Chinese, Japanese, Burmese, Kanakas, and Canadian Indians. *In re Ah Yup*, 5 Sawy. (U. S.) 155; *In re Saito*, *supra*; *In re Po*, 7 N. Y. Misc. 471; *In re Kanaka Nian*, 6 Utah 259; *In re Burton*, 1 Alaska 111. Anomalously, a "pure-blooded Mexican" has been naturalized. *In re Roderiguez*, 81 Fed. 337. No half-breed is a "white person." *In re Knight*, 171 Fed. 299. It has been doubted whether the early statutes were intended to include the complex groups of Western Asiatics. *In re Balsara*, 171 Fed. 294. To classify them now according to the ethnological standards of a century ago is impracticable. From the groupings of early censuses, and from certain modern statutory definitions, however, it is arguable that the term was merely a "catch-all" for others than negroes and Indians. See U. S. REV. STAT. (1878) § 2206; ARKANSAS, DIG. OF STATS. § 6632. Then as Mongolians and Malays are excluded by judicial construction, all Europeans and Asiatics not allied to these races are presumably eligible.

BANKRUPTCY — DISSOLUTION OF LIENS — MONEY BORROWED TO GIVE PREFERENCE. — Shortly before bankruptcy, an insolvent assigned to the defendant certain accounts to secure advances then made to him, and used the money to pay favored creditors. The defendant, when advancing the money, had cause to know the insolvent intended to prefer creditors therewith. The trustee in bankruptcy sought to have the assignment set aside as fraudulent. *Held*, that this is not a fraudulent assignment. *Van Iderstine* v. *National Discount Co.*, 174 Fed. 518 (C. C. A., Second Circ.).

It seems clear that the words of § 67 e of the Bankruptcy Act of 1898, "intent to hinder, delay, or defraud," were meant to have the same artificial construction as in the statute of 13 Elizabeth. *In re Bloch*, 142 Fed. 674. *Contra*, *In re McLam*, 97 Fed. 922. And since that statute did not include preferences, this section should not affect transactions preferential in intent. *Cf. Blackmore* v. *Parkes*, 81 Fed. 899. Yet in several cases, the courts, in order to discourage preferences, have held transfers similar to the one attacked in the principal case void under this provision. *Roberts* v. *Johnson*, 151 Fed. 567. *Cf. Ex parte Mendell*, 1 Low. (U. S.) 506. Independently of this section the desired result might sometimes be attained, for transactions intended to promote illegality are often invalid. *Hull* v. *Ruggles*, 56 N. Y. 424. And though at common law a preference was legal, it defeats the aim of bankruptcy statutes and is therefore improper. *Pirie* v. *Chicago Title & Trust Co.*, 182 U. S. 438. See 15 HARV. L. REV. 829, 834, 843. And any court willing to strain the statutes to prevent a preference would probably regard it as serious enough to taint the whole conduct of those who by advancements knowingly make it possible. But actual knowledge of the preferential intent is required; and reasonable cause to anticipate such a result is not sufficient to taint the transaction. *Cf. Adams* v. *Coulliard*, 102 Mass. 167. Hence the principal case seems sound.

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — SEAT IN STOCK EXCHANGE AND CLAIMS DUE ON FLOOR TRANSACTIONS. — Under the rules of the Consolidated Stock Exchange of New York, an insolvent member's seat is to be sold, his floor transactions closed out, and the proceeds appropriated to the payment of (1) indebtedness to the exchange, (2) claims arising out of transactions on the floor, and (3) loans from members. *Held*, that a trustee in bankruptcy takes these proceeds subject to the rules of the exchange, and must give priority to exchange creditors in the order named. *In re Gregory*, 174 Fed. 629 (C. C. A., Second Circ.).

A seat in a stock exchange is property which, on the bankruptcy of the member, passes to his trustee. *Page* v. *Edmunds*, 187 U. S. 596. But since membership is a personal privilege, created by vote of the exchange, that body may